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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,891	03/04/2002	John MacEachern	12403-4	1840

1059 7590 12/12/2003

BERESKIN AND PARR  
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CANADA

EXAMINER

MENDIRATTA, VISHU K

ART UNIT PAPER NUMBER

3722

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/086,891

Applicant(s)

MACEACHERN, JOHN

Examiner

Vishu K Mendiratta

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5-20 and 27-39 is/are pending in the application.
- 4a) Of the above claim(s) 27-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-20,38 and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 112***

1. Claim 20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The underlined limitation is unclear. The claim is a run-on sentence with no clear meaning

***Claim Rejections - 35 USC § 102***

2. Claims 1, 5-10 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Grady.

O'Grady teaches a game comprising a game board having general scoring area (col.3, lines 7-9), one or more blocking pieces (lower disc and upper disc, see col3, lines 57-59), pieces are tossed on the game board (col.1, lines 56-57), pieces and board having magnets for mutual attraction (abstract), teaching further structural layers for construction of magnetic board as means for attachment and magnetic pieces (col.2, lines 42-68), projectiles of any shape col.3, line 34).

O'Grady further teaches blocking pieces distinct from scoring pieces (3:10-25).

Note that "area remaining uncovered" is a method of playing and no further limitation is added to the apparatus by this limitation.

3. Claim 20,38,39 are rejected under 35 U.S.C. 102(b) as being anticipated by Christian.

Christian teaches a game board for one or more receiving pieces (14) in a scoring area (col.4, lines 20-24), blocking and scoring pieces (col.3, lines 47-49), receiving, blocking and scoring pieces having magnets (abstract).

***Claim Rejections - 35 USC § 103***

4. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Grady in view of Stuart.

O'Grady teaches all limitations of these claims except that it does not explicitly teach hook and loop attachment means. Stuart in a similar game teaches hook and loop arrangement (Fig.1). In order to attach pieces it would have been obvious to use any attachment means such as shown by Stuart. One of ordinary skill in art at the time the invention was made would have used hook and loop attachment means.

***Response to Arguments***

5. Applicant's arguments filed 09/22/03 have been fully considered but they are not persuasive. "Blocking pieces" and "Scoring pieces" are only names given to the playing pieces. The playing pieces in the cited reference demonstrate the capability to be used in the same manner as the playing pieces in the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (703) 308-2159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

A handwritten signature in black ink, appearing to be 'Vishu K Mendiratta', written over a horizontal line.

Vishu K Mendiratta  
Examiner  
Art Unit 3722

VKM  
December 2, 2003